THE HIGH COURT OF UTTARANCHAL AT NAINITAL
Civil Writ Petition No. 427 (S/B) 2003

Dr. Raj Kumar S/o Sri Indra Ram,
R/o Medical Officer (Incharge),
Primary Health Centre Munsiyari,
Distt. Pithoragrh …….. Petitioner.

Vs.

Divisional Forest Officer,
Government of Uttaranchal through,
Secretary Medical Health, Uttaranchal Dehradun,
and once others.
……. Respondents

Mr. S.N. Babulkar, Advocate for the Petitioner,
Mr. K.P. Upadhayaya, learned counsel for the respondents.

Coram: Hon. S.H. Kapadia, C.J.
Hon. Rajesh Tandon, J.
Date: 25.08.2003

ORAL JUDGMENT [Per S.H. Kapadia, C.J.]

Rule.

Respondents waive service.

Since a short point is involved in the matter, the Court has decided to take up this matter finally.

Before the creation of the State of Uttaranchal, the petitioner has exercised his option for the State of U.P. in the year 2000. However, on the creation of the State of Uttaranchal, the petitioner opted for the State of Uttaranchal vide his application dated 3.11.2000. The petitioner has been working the district Pithoragarh as Medical Officer in the Primary Health Centre for the last thirteen years. The petitioner has been relieved by the State of Uttaranchal in favour of the State of U.P. on the ground that he has opted for U.P. prior to the formation of the State of Uttaranchal. Being aggrieved by the petitioner being relieved, this petition has been filed.

The facts clearly indicate that before creation of the State of Uttaranchal, the petitioner had opted for the U.P. in the year 2000. However, on 3.11.2000 no sooner it became known to the petitioner that this state was being created the petitioner made an application opting for the State Uttaranchal. It is true that till today, the Central Government has not made the final allocation. However, pending that final allocation, the petitioner cannot be relieved from the State of Uttaranhcal in favour of the State of U.P. It is not a case where a person

had applied for the state of U.P. and his option continues to be for State of U.P. In this particular case, the petitioner has opted for the State of Uttaranchal on 3.11.2000. The State of Uttaranchal came into existence on 9.11.2000. Hence, the petitioner cannot be relieved/transferred to U.P. We make it clear that our order is pending final allocation by the Central Government. We also make it clear that the petitioner may be transferred within the State of Uttaranchal pending final allocation by the Central Government.

The Petitioner has been working at Pithoragrh for last 13 years. He may be transferred to any other place within the state of Uttaranchal, but he can not be relieved to the to the State of U.P. as he has opted for this State on 3.11.2003.

Accordingly, the writ petition is allowed in terms of prayer clause A.

No order as to costs.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

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